

INTERNAL REVENUE SERVICE

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The Honorable John E. Sweeney
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Sweeney:

This letter is in response to your inquiry dated March 14, 2000, on behalf of your constituent, [REDACTED] is the Director of the [REDACTED]

[REDACTED] in the [REDACTED] (the Agency.)

The Agency reimburses volunteers their expenses for driving their private vehicles to perform services on behalf of the Agency. The volunteers receive no compensation for their services, only reimbursement by mileage. Most of the volunteers are retired and living on fixed incomes. Some volunteers may be forced to drop out of the Agency's volunteer driver pool because the price of gas is escalating while the reimbursement rate paid by the Agency remains fixed.

[REDACTED] wants the Internal Revenue Service (IRS) to consider amending the mileage reimbursement rate for volunteers because of increasing gasoline prices. The IRS cannot change the rate, which is set by statute. I hope the following information will help explain the federal income tax rules applicable to the volunteer drivers.

In Rev. Rul. 80-99, 1980-1 C.B. 10, the IRS ruled that reimbursements for expenses incurred by a taxpayer on behalf of another in a non-employment context are not includible in the taxpayers's gross income, provided the reimbursement does not exceed the actual expenses. Thus, the Agency's reimbursement to a volunteer of out-of-pocket transportation costs incurred on its behalf is not income to the volunteer.

Reimbursement By Mileage. Under Rev. Proc. 99-38, 1999-43 I.R.B. 525, taxpayers may calculate the value of using an automobile for business, moving, medical, or charitable purposes, by mileage without keeping records of actual expenses. But generally taxpayers must still keep records of the miles, time, place (or use), and purpose of mileage in order to receive reimbursement. The standard mileage rate system is a convenient way to determine the amount of reimbursements.

The standard mileage rate for volunteers providing service to a government or charitable organization is set by § 170(i) of the Internal Revenue Code at 14 cents per mile. The IRS has no administrative authority to raise the rate—it can only be

increased by a change to the statute. The rate was raised from 11 to 14 cents per mile by § 973(a) of the Taxpayer Relief Act of 1997, effective for taxable years beginning after December 31, 1997.

Reimbursement of Actual Costs. Instead of using the charitable standard mileage rate, the Agency may reimburse actual gasoline and oil expenses incurred on behalf of the Agency. This allows the Agency to provide for increased fuel prices. To allocate costs, the volunteer should report to the Agency the total gasoline and oil expenses, the total miles driven, and the miles, time, place (or use), and purpose of mileage driven in service of the Agency. The Agency may reimburse the volunteer tax-free the percentage of those expenses equaling the percentage of miles driven on behalf of the Agency.

Consequences of Overpayment. If the Agency reimburses more than the volunteer's actual gasoline and oil expenses, the excess amount paid is income to the recipient. If the Agency reimburses using the business rate of 32.5 cents per mile, the excess over the 14 cent charitable rate is income to the recipient. This is because the business standard mileage rate includes vehicle ownership expenses such as repair expenses, depreciation, and insurance, which are not costs incurred by the volunteer on behalf of the Agency.

I enclose a copy of Publication 526, *Charitable Contributions*, for a further explanation (on page 4) of using a personal vehicle for the benefit of a charitable or governmental organization. I hope the above information is helpful. If you have any questions, please call me at (202) 622-4920, or call John T. Sapienza, Jr., Identification Number 50-6383, at the same number.

Sincerely,

Deputy Assistant Chief Counsel
(Income Tax & Accounting)

By _____
Robert A. Berkovsky
Chief, Branch 2

Enclosure